IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 29279 of 2004(I)

PETITIONERS:

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1. **MUHAMMED KUTTY, S/O.KUNJUNNI, CHAKKIAVIL HOUSE, AMABALAVATTOM P.O. PANAMANNA SOUTH, OTTAPPALAM TALUK, PALAKKAD DISTRICT.**

2. **SAITHALAVI, S/O.RAYAN, CHAKIYAVIL, VARODE P.O. OTTAPPALAM, PALAKKAD DISTRICT.**

BY ADV. SRI.G.HARIHARAN,
SRI.PRAVEEN.H.

RESPONDENTS:

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1. **THE DEPUTY CONTROLLER OF EXPLOSIVES, ERNAKULAM NORTH, ERNAKULAM -682 018.**

2. **THE DISTRICT COLLECTOR, PALAKKAD.**

3. **THE KERALA STATE POLLUTION CONTROL BOARD, PALAKKAD DISTRICT OFFICE, PALAKKAD.**

4. **OTTAPPALAM MUNICIPALITY, OTTAPPALAM, REP. BY ITS SECRTARY.**

W.P.(C). NO.29279/2004:

5. DIVISIONAL FOREST OFFICER,
FOREST DIVISION OFFICE, OLAVAKKODE, PALAKKAD DIST.

6. V.J. ROY,
VADAKKAN HOUSE,
VARODE.P.O., OTTAPPALAM,
PALAKKAD DISTRICT.

***ADDL.R7. MOHAMMED IDRIS ABDULLAH,**
PROJECT MANAGER, ROAD BUILDER (M) SDN. BHD.,
CAMP OFICE AT MANKKARA, PALAKKAD DISTRICT.

***ADDL.R7 IS IMPLEADED AS PER ORDER DTD.11/10/2004**
IN I.A. NO. 13843/2004.

BY ADV. SRI.SANTHEEP ANKARATH ,
SRI.V.GIRI,
SRI.K.K.CHANDRAN PILLAI,
SRI. CHANDRAMOHAN DAS,S.C.
GOVERNMENT PLEADER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.29279/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE RECEIPTS ISSUED BY THE ANANGANADI GRAMA PANCHAYATH IN THE NAME OF THE P.1. EVIDENCING PAYMENT OF PROPERTY TAX TO ANANGANADI PANCHAYATH DTD. 30/09/2004.

EXT.P.2: COPY OF THE PROPERTY TAX RECEIPT IS ISSUED BY THE OTTAPALAM MUNICIPALITY IN THE NAME OF THE P.2. EVIDENCING PAYMENT OF PROPERTY TAX TO OTTAPALAM MUNICIPALITY DTD. 30/09/2004.

EXT.P.3: COPY OF THE PAPER REPORT PUBLISHED IN "MALAYALA MANORAMA DAILY" DTD. 07/10/03.

EXT.P.4: COPY OF THE PAPER REPORTED DTD. 20/11/03 PUBLISHED IN "MATHRUBHUMI DAILY".

EXT.P.5: COPY OF THE MASS REPRESENTATION FILED BY THE INHABITANTS OF WARD NO. II OF OTTAPALAM MUNICIPALITY AND WARD NO. IV OF ANANGANADI PANCHAYATH FILED ON 27/09/04.

EXT.P.6: COPY OF THE PAPER REPORT PUBLISHED IN THE MALAYALAM DAILY "MADHYAMAM" DTD. 28/09/04.

EXT.P.7: COPY OF THE REPRESENTATION DTD. 06/03/03 SUBMITTED TO THE R.7 BY THE ALL KERALA CRUSHER OWNERS ASSOCIATION, PALAKKAD DISTRICT COMMITTEE.

EXT.P.8: COPY OF THE PRESS REPORT PUBLISHED IN MADHYAMAM DAILY DTD. 07/10/04.

RESPONDENT'S EXHIBITS & ANNEXURE:

EXT.R4.A: COPY OF THE GOVERNMENT ORDER DATED 07/04/2004.

EXT.R6.(A): COPY OF THE DEED NO. 2549/02 DTD. 29/08/2002 EVIDENCING TITLE OF R.6 AND POSSESSION CERTIFICATE.

EXT.R6.(B): COPY OF THE DEED NO. 2122/02 DT. 15/07/2002 EVIDENCING TITLE IN FAVOUR OF LUCY WIFE OF RESPONDENT.

EXT.R6.(C): COPY OF THE DETAILED SKETCH OF THE PROPERTY.

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EXT.R6.(D): COPY OF THE CERTIFICATE ISSUED BY THE DIVISIONAL FOREST OFFICER EVIDENCING RETURN OF PROPERTY TO THE PREDECESSORS IN INTEREST OF THIS RESPONDENT BY THE GOVERNMENT DTD. 06/05/95.

EXT.R6.(E): COPY OF THE RESULTS OF THE LABORATORY TESTS ON ROCK SAMPLES FROM THE AREA COVERED UNDER EXHIBIT R6 (A) AND (B) DTD. NIL.

EXT.R6.(F): COPY OF THE REPORT OF THE CENTRAL MINING RESEARCH INSTITUTE, DHANBAD DT. 04/02/2004.

EXT.R6.(G): COPY OF THE CONSENT ISSUED BY THE POLLUTION CONTROL BOARD NO. PCB/PLKD/CE/135/03 DTD. 30/01/2004.

EXT.R6.(H): COPY OF THE LICENCE ISSUED BY THE OFFICE OF DY. CHIEF CONTROLLER OF EXPLOSIVES GOVT. OF INDIA DTD. 03/03/2004.

EXT.R6.(I): COPY OF THE QUARRYING LICENSE GRANTED BY DIRECTOR OF MINING AND GEOLOGY VIDE ORDER NO. 613/2003-04/8075/M3/03 DTD. 31/01/2004.

EXT.R6.(J): COPY OF THE QUARRYING LEASE DTD. 22/03/2004 REGISTERED BETWEEN THIS RESPONDENT AND GOVERNMENT.

EXT.R6.(K): COPY OF THE ORDER OF THE GOVERNMENT DTD. 07/04/2004 RVERSING THE ORDER OF THE MUNICIPALITY.

EXT.R6.(L): COPY OF THE PERMISSION GRANTED BY OTTAPALAM MUNICIPALITY DTD. 18/09/04.

EXT.R6.(M): COPY OF THE PERMISSION GRANTED TO THIS RESPONDENT BY THE MUNICIPALITY UNDER SECTION 448 OF THE KERALA MUNICIPALITIES ACT 29/05/04.

EXT.R6.(N): COPY OF THE NO OBJECTION CERTIFICATE FROM THE ADDITIONAL DISTRICT MAGISTRATE, PALAKKAD DT. 06/01/04.

EXT.R6.(O): COPY OF THE NO OBJECTION CERTIFICATE FROM DIVISIONAL FOREST OFFICER DT. 07/04/03.

EXT.R6.(P): COPY OF THE ORDER OF THE JOINT DIRECTOR OF FACTORIES AND BOILERS NO. G-2140/40 DTD. 03/09/2004.

EXT.R6.(Q): COPY OF THE PROVISIONAL REGISTRATION AS SSI UNIT DT. 22/03/04.

EXT.R7.(1): COPY OF THE AGREEMENT DTD. 16/05/2003.

EXT.R7.(2): COPY OF THE LEASE AGREEMENT DTD. 22/01/2003.

EXT.R7.(3): COPY OF THE QUARRYING LEASE AGREEMENT DATED 22/03/2004.

EXT.R7.(4): COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE DIVISIONAL FOREST OFFICER, DTD. 07/04/2003.

EXT.R7.(5): COPY OF THE LICENCE ISSUED BY THE R.1. DTD. 02/03/2004.

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EXT.R7.(6): COPY OF THE CONSENT TO ESTABLISH THE CRUSHER GRANTED BY THE R.3. DTD. 30/01/2004.

EXT.R7.(7): COPY OF THE NOTICE OF THE INSTRUCTION DTD, 18/09/2004.

EXT.R7.(8): COPY OF THE ORDER DTD. 07/04/2004 BY THE GOVERNMENT SECRETARY.

EXT.R7.(9): COPY OF THE LICENCE ISSUED BY THE R.4. DTD. 18/09/2004.

ANNEXURE R3.A: COPY OF THE CONSENT ORDER NO. PCB/CE/1519/04 DTD. 30/01/2004 ISSUED BY THE BOARD.

//TRUE COPY//

prv.

KURIAN JOSEPH J.

W.P.(C) No.29279 of 2004

Dated 7th June, 2007.

J U D G M E N T

In the matter of operation of a metal crusher unit, there is already an interim order dated 6.12.2004, which reads as follows :-

> "Heard.
>
> From the report of the District Collector, it would appear that the contesting respondents have all the requisite statutory clearances for blasting operations. But, for running the crusher unit, the consent of the Pollution Control Board is necessary. Accordingly the crusher unit shall be operated by respondents 6 and 7 only after obtaining consent from the Pollution Control Board to operate it."

The writ petition is hence disposed of in terms of the said interim order.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO. OF 2003

J U D G M E N T

Dated 7th June, 2007.